UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1993/SR.45
8 March 1993

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 45th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 1 March 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)
later: Mr. FLINTERMAN (Netherlands)

CONTENTS

Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission:

(a) Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms

(b) National institutions for the promotion and protection of human rights

(c) Coordinating role of the Centre for Human Rights within the United Nations bodies and machinery dealing with the promotion and protection of human rights (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.93-11360 (E)

CONTENTS (continued)

Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

(a) Question of human rights in Cyprus (continued)

The meeting was called to order at 3.20 p.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (agenda item 11) (continued) (E/CN.4/1993/8, 29 and Add.1, 30, 31-35, 87*, 90 and 96; E/CN.4/1993/NGO/2, 11 and 17)

1. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that the problem of displaced persons was one of the gravest facing the international community. The 1949 Geneva Conventions, and more particularly Additional Protocol II of 1977, established fundamental guarantees for the victims of internal conflicts, especially displaced persons. Unfortunately, many States had yet to accede to or ratify Additional Protocol II and she urged those States to do so and to incorporate its provisions into their legislation. Nevertheless, the existence of international standards was not in itself sufficient, since even States which had acceded to or ratified the relevant instruments often continued to violate their provisions.

2. The situation of internally displaced persons was particularly grave in a number of Latin American countries, such as Peru, Guatemala and Colombia, often as a result of the activities of paramilitary groups or members of the armed forces. Legal measures taken by non-governmental organizations in the human rights field to protect displaced persons often received no support from Government authorities. Unless countries with internal conflicts took action to combat the activities of paramilitary groups and introduce legal measures to protect the lands and the lives of internally displaced persons, the problem would continue to worsen.

3. Given the lack of international instruments to protect internally displaced persons, the international community should devote greater attention to the problem and support the work of the national non-governmental organizations. Consideration should also be given to revising the mandate of the United Nations High Commissioner for Refugees (UNHCR) to include the question.

4. Governments must assist the humanitarian work of non-governmental organizations, punish rather than protect those responsible for displacements, dismantle paramilitary groups, apply article 3 common to all four of the Geneva Conventions and comply with the provisions of Additional Protocol II. They should also provide shelter, health care and food for internally displaced persons, guarantee their return in a climate of security, punish those responsible for illegally occupying their property and provide them with appropriate compensation.

5. Mr. DENG (Special Representative of the Secretary-General on the human rights issues related to internally displaced persons) said that the magnitude of the crisis was clear from the most recent statistics, which estimated the number of internally displaced persons at 25 million, but also from the reality behind those statistics, as reflected in the terrible conditions of deprivation and indignity he had personally witnessed. Yet the cost to the nations concerned could only be fully grasped if it was remembered that the most frequent causes of displacement - armed conflict, civil strife and communal violence - were afflictions from which the entire nation in question suffered. Ultimately, it was the causes of the problem that must be addressed but, in the interim, something must be done to help those in need.

6. Although he shared the concern expressed by a number of delegations regarding the need for a definition, that was no reason for delaying action by the Commission. For the moment, what was needed was a flexible working definition, not a rigid one, in order to identify those requiring protection and assistance. It was better to err on the side of inclusion rather than exclusion.

7. The question whether existing international human rights and humanitarian law provided adequate protection was also a debatable one. Some felt that it did, while others believed that there were significant gaps. Some thought that to admit to the existence of gaps offered loopholes which would enable Governments to commit violations, while others felt that recognizing existing inadequacies offered a focus for developing properly targeted protection. He, personally, favoured a compromise based on an analysis of the extent to which the existing instruments met the specific needs of internally displaced persons to serve as a basis for a more focused statement of principles, which might lead to a declaration and, ultimately, a more binding legal instrument. The fact remained that, for the moment there was no legal instrument focused on the specific needs of internally displaced persons.

8. There was general agreement that the lack of a specific mechanism for internally displaced persons was a major gap in the international system, despite the fact that institutions such as UNHCR and the International Committee of the Red Cross (ICRC) were providing valuable services. Since a major institutional arrangement was unlikely in the foreseeable future, the Commission should persist with its chosen mechanism, that of a representative of the Secretary-General, as the best way of providing a focal point for links with the relevant bodies within the United Nations system.

9. The task of the representative should involve keeping in touch with situations on the ground through country visits, engaging in dialogue with Governments and others, working in close cooperation with relevant international organizations, and otherwise pursuing practical measures to improve the protection of and assistance to the internally displaced. It would not be easy to combine the monitoring and reporting role with one of dialogue, but a concerted effort was needed. It had to be assumed that a minimum common ground of goodwill and humanitarian concern existed as a basis for joint efforts to provide protection and assistance, which must go hand in hand. Recognizing that fact should help alleviate the concerns sometimes expressed over the question of national sovereignty.

10. The masses of the internally displaced had no voice in international circles. Their only voice was the collective conscience of humanity, for which the Commission on Human Rights was a focal point. In his travels in the former Yugoslavia and other countries, he had seen for himself how the hopes and aspirations of displaced persons could be lifted by the arrival of United Nations planes or vehicles. The message that they were no longer beyond the reach of the international community having been delivered the question arose how that message could be translated into practical results that would provide them with protection and assistance.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS
(agenda item 12) (continued) (E/CN.4/1993/7, 36-40, 41 and Add.1, 42-44, 46-49, 75, 76, 79, 82, 86, 95 and 99; E/CN.4/1993/NGO/6, 8, 12, 16, 23, 26-28 and 31; E/CN.4/1992/29, 30 and Add.1, 32-34, 50 and Add.1 and 51; A/47/240, 367 and Add.1, 596, 617, 621, 625 and Corr.1, 651 and 656)

11. Mr. LARSEN (Observer for Denmark), speaking on behalf of the European Community and its member States, said that the Declaration on Human Rights, adopted in 1991 by the European Community Heads of State and Government, stated categorically that the safeguarding of human rights was an essential part of international relations as well as of relations between the Community and its member States and other countries. The Community refused to accept that State sovereignty could be used as a shield for any country to carry out violations of human rights. Within that framework, it actively supported the consolidation of human rights and democracy as an integral part of wider development programmes, the more so as tensions and conflicts arising from gross violations of human rights in one country were often a threat to regional or international peace and security.

12. The Commission, serviced by the Centre for Human Rights, was the focal point for upholding and monitoring human rights and should be used accordingly. The Community noted with satisfaction the increasing attention paid to human rights in United Nations undertakings, but there was also a marked tendency to initiate such activities without major involvement of the Centre. That issue deserved serious consideration not only in the Commission but also at the forthcoming World Conference on Human Rights.

13. In recent years, there had been a grave escalation of racial hatred and violence in Europe. The Governments of the European Community countries would spare no effort to end such acts, which were clearly unlawful. They were firmly committed to democracy, and the European human rights monitoring mechanisms demonstrated their willingness to accept international criticism and even international decisions concerning their human rights performance.

14. The Community strongly condemned the atrocities and loss of lives in the former Yugoslavia and welcomed the adoption by the Security Council of

resolution 808 (1993) establishing an international tribunal for the prosecution of persons responsible for violations of international humanitarian law in the territory of the former Yugoslavia.

15. The Community welcomed the steps taken by the Albanian Government towards democratization, including the parliamentary elections held in 1992. Nevertheless, the situation of persons belonging to ethnic minorities needed further improvement. He noted with concern that the bills for religious communities and educational institutes would introduce discriminatory policies.

16. The tragic division of Cyprus had important human rights aspects. The Community was deeply concerned at the deadlock in the discussions between the parties concerned. It reaffirmed its strong support for the Secretary-General's mission of good offices and welcomed his latest proposals concerning the adoption of confidence-building measures.

17. The Community welcomed the Turkish Government's declared commitment to improving human rights protection in Turkey. It attached great importance to strict respect for the standards to which Turkey had subscribed by acceding to the international instruments on human rights and as a founding member of the Council of Europe. However, the latest findings of the European Committee for the Prevention of Torture and other reports gave reason for deep concern. Cases of human rights violations by Turkish officials, including in particular torture and other serious ill-treatment, particularly during police detention, had been reported in the last 12 months. The Community acknowledged the difficult situation prevailing in some parts of Turkey and vigorously condemned all acts of violence and terrorism. Those problems did not, however, diminish the Turkish Government's obligation to respect human rights.

18. As for the territory of the former Soviet Union, developments in Georgia, Azerbaijan, Tajikistan, Uzbekistan and Turkmenistan were encouraging although problems remained. Positive developments included the release of political prisoners in Georgia and the parliamentary elections in Georgia and Azerbaijan. However, the ongoing conflicts in Georgia, Nagorno-Karabakh and Tajikistan had led to flagrant human rights violations, which the Community deplored, as it did the use of heavy weapons against civilian targets in Nagorno-Karabakh. The arrest of members of the opposition in Turkmenistan and Uzbekistan and the reports of summary executions of opponents in Tajikistan were also disturbing.

19. There had been progress in El Salvador, but widespread human rights violations were still taking place. The Community was concerned at the persistence of illegal or arbitrary detentions, cruel, inhuman or degrading treatment and summary executions, their perpetrators reportedly being members of military and paramilitary groups. Nevertheless, there had been a significant improvement, mainly due to the ending of hostilities, and ONUSAL's contribution in that context had proved invaluable.

20. Compliance with the peace agreements was a prerequisite of respect for human rights in El Salvador and essential aspects of the peace process had still to be carried out by both parties, including the recommendations of the Ad Hoc Commission and other commissions set up under the Peace Agreements on

the issue of the armed forces, the transfer of land to ex-combatants and the agreement on economic and social development. In the circumstances, the Community thought that the human rights situation in El Salvador should continue to be considered under agenda item 12.

21. In spite of the good intentions expressed by the Government of Guatemala and the decline in the number of violations reported, the Community was still seriously concerned at the generally high level of violence in that country and the persistence of reports of violations such as extrajudicial executions, arbitrary detentions, disappearances, ill-treatment of street children and the forcible recruiting of civilians into the so-called civil defence patrols. Of particular concern was the implication of members of the armed forces in the violations and the fact that the judicial system had been unable so far to bring those responsible to justice.

22. While recognizing the efforts of the Serrano Government to reach an agreement with the Unión Nacional Revolucionaria Guatemalteca (UNRG), the Community urged it to use the International Year for the World's Indigenous People, as an opportunity to improve the situation of indigenous peoples and ensure a peaceful return of all refugees with all due guarantees. As long as the current state of affairs persisted, the situation of human rights in Guatemala should be addressed under agenda item 12.

23. The Community noted with deep concern the deterioration in the human rights situation in Cuba. The increased harassment of human rights activists and the maintenance of repressive measures indicated an absence of basic democratic guarantees. He urged the Cuban Government to cooperate with the Special Rapporteur and to introduce political reforms aimed at achieving a democratic society based on pluralism, respect for human rights and tolerance.

24. Since the military coup of 1991 in Haiti, murders, illegal arrests, abduction and brutalities had become the lot of the Haitian people, especially the poorest among them, who were generally suspected of being sympathetic to the legitimate Haitian authorities. The Community supported the joint initiative of the Secretary-General of the United Nations and the Secretary-General of the Organization of American States to dispatch a human rights mission to Haiti, and it urged the Port-au-Prince regime to cooperate fully with that mission.

25. Although there had been recent positive developments in Peru, including the holding of general and local elections, the Community remained concerned at the serious human rights situation there. It urged the authorities to ensure that human rights violators were brought to justice and hoped that the new Constitution would prove the commitment of the Peruvian Government and all parties involved to the promotion of a pluralist democracy and respect for human rights.

26. In Africa, despite some progress towards democracy and respect for human rights, some situations of concern persisted. The Community strongly condemned the recent violence in Togo and its capital, Lomé, which had given its name to the Convention that was the symbol of close links between the Community and 69 African, Caribbean and Pacific States. A climate of confidence and security, including the neutrality of the armed forces and

guarantees of security and freedom of speech for all, must be re-established. Free elections must be held as soon as possible.

27. The Community urgently appealed to all parties to the conflict in Liberia to seek a peaceful solution in accordance with the Yamoussoukro IV agreement and to respect the fundamental human rights of all the people in the country.

28. In Ethiopia, despite some progress in the field of human rights, the detention of numerous political prisoners and detentions without charge were matters of particular concern. The Community was encouraged by the decision of the transitional Government to reintroduce habeas corpus and to begin the process of releasing political prisoners. It called on all parties in the country to work towards reducing tensions.

29. The ongoing tragedy in Somalia was most saddening. However, the results of the United Nations informal preparatory meeting on national reconciliation, held at Addis Ababa and attended by 14 Somali factions, were encouraging, as was the decision to hold a National Reconciliation Conference. The Secretary-General's forthcoming report on the situation in Somalia would provide the basis for a resolution establishing UNOSOM II, whose mandate should contain a substantial human rights element.

30. The Community wished to commend all the Somali and foreign aid workers who had voluntarily devoted themselves to caring for the people of Somalia, and called upon everyone in that country to do his or her utmost to ensure the safety of those relief workers, some of whom had unfortunately been killed or injured.

31. The Community recalled its statement on Rwanda of 21 January 1993 welcoming the progress achieved in the peace process initiated at Arusha. It condemned the flagrant violation of the cease-fire by the Rwandese Patriotic Front, which was prejudicial to the search for a negotiated solution and appealed to all political forces to assume their responsibilities so as to avoid an even more catastrophic situation for the vast numbers of displaced persons. It also condemned all types of violence, including the many acts of violence committed by political militants, and called on the parties concerned to resume the process of conciliation without delay.

32. The situation was deeply alarming in the Sudan, where there had been numerous instances of summary execution, detention without trial, torture, religious persecution, and cruel, inhuman and degrading forms of punishment. The discrimination against members of minority groups and their forced displacement had led to a large number of displaced persons within the country and a flow of refugees to neighbouring countries. Access by the civilian population to humanitarian assistance was being severely impeded.

33. The Community had expressed to the Government of Sudan its deep concern at the systematic abuses of human rights throughout the country, including persistent reports of atrocities by Government forces, and it had actively supported the resolution on the situation adopted by the General Assembly in December 1992. It also supported the proposed designation of a Special Rapporteur on the situation. It called on the Sudanese Government to implement the human rights instruments to which it was a party, and to allow

its citizens, including members of all ethnic and religious groups, to enjoy all the rights recognized in those instruments. The Community also deplored the violence against civilians by factions of the Sudan People's Liberation Army, and called on all parties to cooperate with international organizations in their effort to bring humanitarian assistance to the civilian population.

34. The Community deplored the new outbreak of violence in Zaire, which had caused numerous deaths, including that of the Ambassador of France in Kinshasa. It called upon the President of Zaire to cease obstructing the process of democratic transition and encouraged the democratic forces in the country to continue their efforts to promote a political settlement.

35. In spite of recent steps taken by the Government of Malawi, the Community was seriously concerned about the situation of human rights in that country. While noting the Government's declared intention to hold a referendum on the introduction of multi-party democracy, it considered that, for that referendum to be free and fair, all parties must be given adequate time to present their views to the electorate. It thus welcomed the Government's decision to accept the Secretary-General's suggestion and postpone the referendum.

36. The Community supported the Malian Government's commitment to improve the human rights situation and welcomed the agreement aimed at finding the appropriate conditions for a peaceful solution to the country's problems. Satisfactory implementation of such an agreement was crucial to achieving better conditions for the population of the northern regions and helping them preserve their cultural heritage.

37. In Niger, where there was still tension among ethnic groups, the Community welcomed the holding of multi-party parliamentary elections on 14 February 1993 as a significant step forward in the democratization process. It urged all political parties to respect the outcome of the elections and help ensure the completion of the peaceful transition to constitutional democratic government.

38. The Community was deeply concerned at the human rights situation in Equatorial Guinea. Harassment of political opponents, arbitrary detention, judicial procedures without due guarantees and torture, especially by the Presidential Guard, were still practised. The formal guarantees included in the new Constitution and some recent laws constituted progress but had not brought about a real improvement of the situation. The Government must continue to cooperate with the Special Rapporteur and follow his recommendations.

39. In the occupied Arab territories, the security situation was rapidly deteriorating, especially in the Gaza strip. The Community condemned all acts of terrorism and violence and was concerned at the increasing number of attacks on Israeli soldiers and civilians. However, it noted with particular dismay the increasing number of children killed and wounded by the Israeli defence forces in recent weeks and the wanton and deliberate destruction of property, sometimes involving the use of anti-tank weapons. It thus called upon Israel, in the strongest possible terms, to respect its international obligations regarding human rights, especially under the fourth Geneva Convention.

40. In southern Lebanon, humanitarian organizations must be granted unimpeded access to detention centres, and particularly to Khiam prison.

41. In Syria, the number of political prisoners, arbitrary arrests, restrictions of freedom of assembly and freedom of expression and reports of torture and disappearances remained matters of continued concern. The Community welcomed, however, the positive steps taken by the Syrian Government over the last year, including the release of a large number of political prisoners and the lifting of travel restrictions on the Jewish community. It urged the Syrian Government to make further efforts to comply with the International Covenants on Human Rights, in particular by improving access to detainees by lawyers and independent observers.

42. In Iraq, massive violations of human rights continued to occur and the Iraqi Government had done nothing to promote greater respect for the rights of its people in general and for the Kurds and Arab Shia in particular. In the south, thousands had been arrested and deported and many executed without trial. Elsewhere in the country, thousands of people, both nationals and foreigners, had disappeared from detention centres, and torture, ill-treatment and summary executions continued to take place. The Community firmly condemned those practices and called on the Government of Iraq to abide by the terms of Security Council resolution 688 (1991).

43. In Iran, continued violations included executions, torture of prisoners, the persecution of religious minorities and the restriction of the freedoms of expression, thought, opinion and the press. The Baha'i community had suffered increased human rights abuses in 1992, including the confiscation of homes and property. The guarantees of due process of law, prescribed by the International Covenant on Civil and Political Rights, to which Iran was a party, were non-existent. Iran's decision to submit to the Human Rights Committee, after a lapse of nearly ten years, its second periodic report under the Covenant was a welcome one, but the Community shared the Committee's view that the report did not accurately reflect the human rights situation in the country.

44. It thus urged the Iranian Government to implement the Covenant in full, particularly with respect to the treatment of women and of ethnic and religious minorities. Iran's continued failure to repudiate the incitement to murder the author Mr. Salman Rushdie was alarming and impossible to reconcile with the recent emphasis on freedom of opinion and expression in the statement to the Commission by the Deputy to the President for Legal and Parliamentary Affairs of Iran. Against that background, the Community deplored the Iranian Government's continued refusal to cooperate with the Special Representative.

45. Violations of human rights in Afghanistan, were still being reported and there were alarming signs of further deterioration. The circumstances of tens of thousands of Tajik refugees in the country was a matter of growing concern, in view of the increasing difficulties in delivering humanitarian aid and ensuring their human rights. The Community welcomed, however, the cooperation of the Afghan authorities with the Special Rapporteur and urged all Afghan parties to increase their efforts to achieve a comprehensive and lasting political solution.

46. The Community was concerned at reports of widespread violations of human rights and restrictions of fundamental freedoms in China, including Tibet. The administration of justice in China did not meet international standards in important respects such as the practice of lengthy detention without trial, the arbitrary application and increasing use of the death penalty, the lack of an independent judiciary and the denial of rights to defendants. Of particular concern were the measures that threatened the cultural, religious and ethnic identity of persons belonging to minorities, the situation in Tibet, the prosecution of religious believers and the imprisonment of people for expressing their political beliefs.

47. The Community had raised those concerns on a number of occasions, most recently over the fate of certain Roman Catholic bishops who had died and others whose lives were feared to be in danger. It noted with appreciation the recent release of some political activists, but appealed to the Chinese authorities to grant a general amnesty. China was in a position to strengthen its commitment to economic, social and cultural rights by acceding to the International Covenant on those rights. The Community rejected any assertion that such appeals amounted to interference in China's internal affairs and regarded the human rights situation in China, including Tibet, to be a legitimate subject for international concern.

48. In Cambodia, the implementation of the Paris Agreements had produced some significant progress, and the Community welcomed the signature by all factions of a number of international human rights agreements. It also welcomed with the emergence of political pluralism, the release of political prisoners and the establishment of Cambodian non-governmental organizations.

49. Despite those encouraging elements, the human rights situation and the recent upsurge of violence remained a matter of concern. In particular, the Community called upon the Khmer Rouge to stop all acts of violence immediately and to participate positively in the democratic process according to its commitments under the Paris Agreements. It hoped that the May 1993 elections and subsequent presidential election would significantly contribute to the improvement of the situation and that all factions would participate in the democratic process. The Centre for Human Rights had an essential part to play in the consolidation of democracy in Cambodia.

50. The Burmese authorities had ignored General Assembly resolution 47/144 and previous appeals to restore democracy and respect for human rights in the country. Although there had been some positive developments in 1992, including the release of political prisoners, the revoking of certain martial law decrees and the convening of a National Convention, many duly elected deputies had not been allowed to participate in the National Convention and some were even being held arbitrarily in custody. Several members of in the National Convention had been subjected to pressures, and the Community therefore believed that the scope of the Convention was extremely restricted.

51. The general situation continued to be characterized by numerous grave violations of human rights and the Government's continuing refusal to give effect to the will of the people as expressed in the 1990 elections. The Community deplored the Burmese authorities' continued refusal to comply with

their obligations under international law and to cooperate with the United Nations and the International Committee of the Red Cross.

52. Repatriation of Rohyngia refugees was seriously impeded by the authorities' rejection of UNHCR monitoring, and the Community urged them to enable the competent United Nations organizations to help the Rohyngia refugees return to their country. The Community deeply regretted that the Commission's Special Rapporteur had not been allowed to meet Daw Aung San Suu Kyi during his recent visit. It called for an immediate and unconditional release of all political prisoners, including Daw Aung San Suu Kyi, and for the Burmese authorities to allow them to participate in political life so that there could be a genuine national reconciliation respecting democratic principles.

53. The Community was following closely the human rights situation in East Timor, especially since the violent incident at Dili on 12 November 1991, which it had strongly condemned. It acknowledged the prompt investigation by the Indonesian authorities but remained concerned about the lack of clear information on the number of people killed and the persons still unaccounted for, the disparity in the sentences handed down against civilians and against the military, and the denial of access to the territory to human rights organizations.

54. It urged the Indonesian authorities to honour their commitments and to respond fully to the consensus statement on East Timor reached at the Commission's previous session. In particular, it trusted that all those in custody, including such opposition figures as Xanana Gusmao, would be treated humanely, that their rights would be fully respected, that their trials would comply with the accepted rules of fairness, and that the International Committee of the Red Cross (ICRC) would be allowed to pay them regular visits. The Community fully supported the Secretary-General's recent initiative to achieve a just, comprehensive and internationally acceptable settlement of the question of East Timor, with full respect for the legitimate interests and aspirations of the East Timorese.

55. The Community deplored the continuing violence affecting Kashmir and the resultant deterioration in the human rights situation there. While terrorist violence must be firmly resisted, the Indian security forces must respect the rule of law. It had urged the Indian Government to allow humanitarian and international human rights organizations free access to the region so that they could make an independent assessment of the situation. The expressed intent of the Indian Government to set up an independent human rights commission was encouraging and it was to be hoped that the Governments of both India and Pakistan would refrain from any action that could result in increasing tension in the region. In that connection, the Community urged the Government of Pakistan to take effective steps to prevent violent interference from territory under its control.

56. The continuing reports of human rights abuses in Sri Lanka remained a source of concern, and the Community once again urged the Sri Lanka Government to ensure that such violations were stopped. Instances of such abuses had substantially decreased, however, and it welcomed the various measures adopted by the Government to curb human rights abuses and invite international

organizations to visit the country. While appreciating the acceptance of recommendations made by the Working Group on Enforced or Involuntary Disappearances, it noted that further efforts were needed to implement them.

57. The Community remained concerned about the human rights situation in the Chittagong Hill Tracts in Bangladesh and hoped that the proclamation of a cease-fire in the region and the initiation of a dialogue between the Bangladeshi authorities and the Shanti Bahini would result in a peaceful and lasting political solution acceptable to all the parties concerned. It assumed that the Bangladeshi authorities would continue to cooperate with UNHCR on the issue of the Rohyngia refugees.

58. The bleak human rights situation in the Democratic Republic of Korea, where the Government continued to deny its citizens many of the human rights and fundamental freedoms set out in the Universal Declaration and the International Covenants on Human Rights to which it was a party, remained a deep source of concern. Consequently, the Community strongly urged the authorities to comply with international human rights standards.

59. In Viet Nam, the situation had improved over the past year with the adoption of the Vietnamese Constitution and of liberalization measures in the field of civil and political rights. The Community was encouraged by the willingness of the Vietnamese authorities to engage in a dialogue and expected that further steps would be taken. In particular, it hoped that citizens imprisoned because of their political opinions or religious beliefs would be released without delay.

60. Ms. PARK (Canada) recalled that she had already expressed her delegation's concern about the human rights situation in the former Yugoslavia. The Commission's adoption of resolutions on the human rights aspects of that terrible tragedy spoke for itself. She had also stressed the need for further progress in eradicating apartheid in South Africa and had referred to the situation in the Israeli-occupied territories, including the plight of the 400 displaced Palestinians. Those serious issues did not, however, reduce the importance of others before the Commission, which should be particularly concerned about countries which not only showed little improvement in their human rights records but also openly refused calls for cooperation from the international community.

61. In Myanmar, the democratic process and any progress towards reform continued to be frustrated by the SLORC dictatorship. Despite the release of some political prisoners and the lifting of curfews, there had been little fundamental change in the overall picture of flagrant abuses of human rights and lack of democratic reform. The continued detention of Daw Aung San Suu Kyi and of other pro-democracy activists was not acceptable to the international community. The Commission must again adopt a firm resolution on that unacceptable situation.

62. Violations of the most basic human rights had continued in Haiti during the past year. Journalists, students and parliamentarians had been threatened, arrested, and in some instances killed for expressing their opposition to the de facto regime. In September 1992, a team of observers from the Organization of American States (OAS) had been prevented by the

de facto authorities from monitoring the human rights situation, particularly outside the capital. Her delegation had thus welcomed with satisfaction the recent despatch of a joint OAS/United Nations mission for the purpose of putting an end to the violations and establishing an atmosphere of justice in the country so as to create the proper conditions for a return to democracy. It would continue to monitor closely the human rights situation in Haiti.

63. In Iraq, reports of widespread human rights abuses were deeply disturbing, particularly the violent suppression of minorities, including the Kurds and the Shiites. The Government of Iraq must accept and apply the numerous Security Council resolutions which provided, inter alia, for humanitarian assistance to the Iraqi people and to vulnerable groups in particular. Her delegation urged the Government of Iraq to cooperate unreservedly with the United Nations Special Rapporteur and to implement fully the recommendations contained in his report (E/CN.4/1993/45).

64. It was most distressing that the Government of Iran had responded to Commission resolution 1992/67 by expelling the International Committee of the Red Cross (ICRC) and by refusing to allow the Special Representative to visit the country. Her delegation shared the Special Representative's concern about continued violations of the right to life, the repressive attitude towards women, and the continuing persecution of the Baha'i community.

65. She had already stressed her Government's concern at the maintenance, by the Iranian authorities, of the death sentence against author Salman Rushdie. Her delegation had listened carefully to the subsequent comments on the matter by the Iranian representative. In response, she wished to stress that Canadians had the highest esteem for the religion of Islam, which was that of 400,000 of their compatriots. However, an incitement to murder a citizen of another country offended the fundamental principles on which the United Nations was founded. Consequently, she could only reiterate her appeal for the lifting of the sentence.

66. Given the increasing concern about reports of the deteriorating human rights situation in Cuba, it was most disappointing that the Cuban Government still refused to cooperate with the Special Rapporteur. Countries that were members of the Commission had a particular responsibility to set a good example by cooperating with its decisions and mechanisms.

67. It was clear that some human rights problems were closely related to the ravages of war and civil strife or to the breakdown of civil authority. In such cases the promotion of a lasting peace would provide the foundation on which to build respect for human rights and fundamental freedoms. At the same time, such conflicts did not excuse any party in authority for failure to fulfil its human rights obligations.

68. The worst situation of that kind was in Somalia, where the collapse of authority had robbed the population of its most fundamental rights and had resulted in terrible suffering for millions. The international community's first concern must be to bring humanitarian relief to the starving people of Somalia while ending the fighting there. It was not too soon, however, to

begin considering how respect for international human rights principles could become an integral part of international efforts to restore the institutions of national government and civil society in the years ahead.

69. In the Sudan, a civil war was being conducted in disregard of the most basic human rights and humanitarian principles, preventing relief from reaching civilians in need. Terror seemed to have become an instrument of policy - a situation which could not be tolerated by the international community. Her delegation welcomed the recent General Assembly resolution drawing attention to that situation. The Commission must focus on the urgent need for political reforms and peace negotiations essential for the restoration of respect for human rights in the Sudan.

70. Progress had been made in some cases towards achieving the conditions for peace and greater adherence to human rights. The 1992 comprehensive peace settlement in Cambodia had been accompanied by the release of over 1,000 detainees and by a greatly enhanced freedom of the press. However, the Khmer Rouge's current lack of cooperation with UNTAC and alleged gross human rights violations seriously threatened the stability of the peace process. Her delegation therefore gave its wholehearted support to the resolution providing for the United Nations to play a continuing role in Cambodia following the completion of UNTAC's mission through the appointment of a special United Nations Representative for Cambodia.

71. In 1992 the Commission had welcomed the signing of the historic peace accords in El Salvador. ONUSAL continued to play an important role in the peace process. While the overall level of violence in the country had decreased since the cease-fire, continuing cases of murder, assault and intimidation remained a source of concern. Her delegation was disturbed that the implementation of certain structural changes had been delayed, particularly those relating to State institutions for the protection of human rights. The Special Rapporteur should be retained until it was clear that a substantial and long-lasting improvement in the human rights situation had taken place.

72. In Guatemala, the longest civil conflict in Central America was still unresolved. The recent agreement on the safe return of Guatemalan refugees from Mexico was encouraging. Yet reports of fundamental human rights abuses involving disappearances, abductions, assassinations and intimidation of human rights and labour activists, and of the mass media, continued. The best prospect for a genuine and lasting improvement lay in a comprehensive peace settlement. In that connection, the stated willingness of the Government of Guatemala to accept a human rights agreement under the scrutiny of the United Nations as a step towards reaching such a settlement was encouraging. It was also encouraging that the insurgent movement saw that as a basis for negotiations, which had recommenced in Mexico. The international community should strongly encourage all parties to take decisive steps towards peace.

73. As far as the position of El Salvador and Guatemala in the Commission's agenda was concerned, her delegation considered that, in principle, all country situations should be examined under item 12. "Advisory services" must

not be allowed to become a kind of sub-category for country situations, thus reducing the amount of funds available to help countries seeking the Commission's assistance.

74. Her delegation was concerned about the situation in Peru, where both Government and terrorist groups were still jeopardizing the security and restricting the liberty of the population by allowing an escalation of violence and tolerating human rights abuses. At the same time, it was impressed by the seriousness and determination of the Peruvian people to voice their opinions during the November 1992 and January 1993 national elections.

75. In Afghanistan, a very fragile peace was unravelling. The extension of the Special Rapporteur's mandate should be approved until an effective Government and a durable peace were established in that country.

76. In Sri Lanka, a protracted ethnic conflict had taken its toll of numbers of innocent people, who had been killed or had disappeared. The Government had taken steps to improve the human rights situation, in cooperation with the international community. There had been an overall reduction in the number of persons who had disappeared, but serious human rights abuses by certain elements of the security forces and by Tamil secessionists continued. The international community should actively encourage a negotiated peace which would provide durable conditions for the observance of human rights. Until then, the Government of Sri Lanka should be encouraged to proceed with the implementation of its reforms and to maintain the dialogue and cooperation it had established with the Commission.

77. The excessive use of violence by the Indonesian military at Dili in November 1991 had led the Commission to adopt a Chairman's statement. While her delegation noted the measures taken by the Indonesian Government further to the various provisions of the statement, it was still concerned about the situation in East Timor and, in particular, about the discrepancies between the sentences handed down against civilians and against military personnel involved in the Dili incident. It noted the expressed intent to establish an independent Indonesian human rights commission and urged that the recent steps to increase access for international human rights activists and journalists be extended. It also looked forward to Indonesia's ratification of the two International Covenants on Human Rights.

78. In China, the repression associated with Tiananmen Square had eased, but many dissidents remained in jail. There was also concern about the continued lack of due process and transparency in judicial procedures, including the use of torture and the death penalty. In Tibet, members of the Tibetan majority continued to be persecuted and imprisoned for the peaceful expression of political beliefs. Her delegation hoped that China would couple its impressive trend towards greater economic openness with greater movement towards political democracy and the implementation of international human rights principles, including the introduction of fundamental legal safeguards, mechanisms to protect prisoners' rights, and access by international human rights organizations to detention centres.

79. In Africa, the Commission must take a greater interest in Zaire, where the degradation of the political and military situation had fostered every

kind of violence. Despite efforts to bring the President to accept the legitimate democratic aspirations of his people, he continued to resist the establishment of a government of transition by such methods as the recent barricading of the representatives of the people in their own National Assembly. The situations in Togo, Chad and Rwanda were also reminders of the potential for civil unrest and for abuses of human rights where democratic principles were denied.

80. The Commission must also be alert to emerging situations involving serious human rights abuses. Both the greatest opportunities and the most dangerous problems the world was currently facing emanated from the newly independent States of the former Soviet Union. The bloody indulgence of nationalism in the former Yugoslavia was a warning to the leaders and peoples of those countries, each of which had minorities and unsettled borders. The importance of providing adequate protection to minorities was crucial.

81. Nowhere was that problem more evident than in Nagorno-Karabakh, where Azeris and Armenians had been fighting an increasingly brutal war for the past five years. The birth of the newly independent States would be a tragedy and not a triumph if hatred was to be their only foundation, if minorities were singled out for abuse, if economies floundered and people perished for lack of food and medicine. The end result could not but be a mockery of the principle of self-determination.

82. Canadians had also been dismayed by the rise of new forms of racism and extremism in parts of Europe and elsewhere. They had, however, been impressed by the way in which citizens in vast numbers had taken to the streets to demonstrate their determination to resist such movements. All societies were susceptible to the evils of racism and extremism: Governments which were determined to deal with such problems deserved the international community's commendation and support, just as Governments which practised such doctrines deserved its condemnation.

83. The human rights picture throughout the world was by no means all negative. Indeed, one of the most striking developments in recent years had been the emergence of a new culture of commitment to democracy and human rights. The old barriers of ideology were being replaced by common goals and a desire to put in place conditions which would lead to freer, more open and more prosperous societies. Many Governments could point to real and positive advances in the human rights situation in their countries, brought about by their own efforts and in some cases with the assistance of the international community.

84. There was, however, no room for complacency. The euphoria that had been felt in the wake of the tearing-down of the Berlin Wall, the prospect of peace in the Middle East and other positive developments had given way to the depressing realities of old problems which did not disappear and new and dangerous situations which threatened the future. There was thus need for the international community, through the Commission and other organs, to exert itself with a new vigour. The Commission had a key role to play in two important respects: first, by making clear what was expected of Governments with respect to human rights and pointing out abuses where they occurred and,

secondly, by encouraging and assisting countries which were genuinely trying to improve their human rights records. Her Government was committed to participating in that process.

85. Mr. HUSSAIN (Pakistan) said that his delegation had had occasion, under different agenda items, to point out the massive human rights violations taking place in different parts of the world, and more particularly at the hands of Indian Government forces in Jammu and Kashmir, as well as in India itself. Its interventions had led to an acrimonious exchange of rights of reply with the Indian delegation, whose effort to sidetrack the central issue might have blurred the true nature of what was happening.

86. In fact, Jammu and Kashmir was recognized by the United Nations as a disputed territory and a large number of resolutions had called for a plebiscite to determine the wishes of the inhabitants. India had reneged on its commitment under those resolutions by maintaining that its take-over of Jammu and Kashmir and subsequent organization of bogus elections had changed the situation. The people of Jammu and Kashmir had, however, refused to participate in the bogus elections and their intifada against Indian repression and occupation was in its 46th year. There were currently 400,000 members of the Indian armed forces in the territory, one for every three able-bodied Kashmiris.

87. Reports had revealed that 10,000 Kashmiris had been brutally killed, women detainees had been subjected to systematic rape and prisoners had been tortured, physically ill-treated and held incommunicado for long periods, while a number of people had disappeared. Indian security forces had violated the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

88. India had then sought to portray the struggle of the Kashmiri people as being instigated from and by Pakistan. Consequently, the Government of Pakistan had proposed, in 1991, that an independent international fact-finding team be sent to examine the situation. The Government of India had not only ducked that proposal but had also refused to allow representatives of some of the most respected non-governmental organizations to visit the disputed territory. The problem of massive human rights violations in the disputed territory was thus one which the international community, and more particularly the Commission, had to take into account.

89. There had also been massive Indian human rights violations recently within India itself. A 500-year old mosque had been demolished and desecrated by Hindu mobs, without any interference by the Government, and, in the subsequent carnage, almost 3,000 people had died, most of them Muslims. Even Muslim visitors to India were not spared and two Pakistanis had recently been murdered there in cold blood. Such things simply could not happen without the connivance or the acquiescence of the authorities.

90. There was also the case of Palestine, where the intifada - like that in Kashmir - was being repressed by brute force and where the issue of the Palestinian deportees had not been resolved, despite Security Council resolution 799 (1992). In the case of Cyprus, his Government took the view

that the question could be resolved through talks between the Greek and Turkish Cypriot communities on a basis of equality. It thus supported Security Council resolution 649 (1990) on that issue.

91. Mr. Flinterman (Netherlands) took the Chair.

92. Mr. TOURE (Guinea-Bissau) said his delegation was concerned about the serious situation in East Timor, where a merciless campaign of repression was unfolding, hundreds of civilians had been deliberately murdered, there was persistent use of torture and the territory was closed to the international press and independent foreign observers. The Commission must urge the occupying authorities to put an end to their flagrant violations of human rights and must demand the release of Xanana Gusmão, the uncontested leader of the Timorese people, who had been kidnapped and unjustly sentenced for having fought for the dignity of his people and the defence of universal principles of human rights. It must exercise pressure on the Indonesian Government to release unfairly sentenced Timorese citizens, provide information on the circumstances in which Timorese detainees had disappeared and died and begin negotiations on a solution acceptable to all the parties concerned.

93. The right to self-determination could be exercised in various ways, through the creation of a new State, the granting of internal autonomy or the establishment of a federal system. Where State borders were unrealistic, however, secession might be inevitable, but should be undertaken through negotiations and the democratic process, not force or violence.

94. While the democratic reforms in Africa, Central and Eastern Europe and other parts of the world had brought considerable progress in the field of human rights, the system of apartheid in South Africa, the repression in Palestine, the inter-ethnic confrontations in Somalia and Liberia, the dramatic situation in East Timor and the tensions in Angola, Afghanistan, Cyprus and Bougainville, not to mention the economic and social problems facing a large part of mankind, continued to give cause for grave concern.

95. Mr. JIN Yongjian (China) said that a number of unfounded allegations had been made regarding the human rights situation in his country. The fact was that the human rights and fundamental freedoms of the Chinese people had been fully guaranteed since the founding of the People's Republic of China in 1949. The policy of reform and opening to the outside world, begun in 1979, had greatly improved the legal and democratic system in China and encouraged sustained economic development. The entire Chinese people, of all nationalities, had never enjoyed human rights as extensively as they currently did, whether civil and political rights or economic, cultural and social rights.

96. The State safeguarded both individual and collective rights and guaranteed the civil rights of all its citizens equally, irrespective of their financial and property status or nationality, race, sex, occupation, family background, religion, level of education or duration of residence. Persons of minority nationalities also enjoyed special rights, such as the right to regional national autonomy.

97. However, no organization or individual was above the law. While ensuring freedom of religious belief, Chinese law clearly provided that no one could make use of religion to engage in activities that were prejudicial to other citizens, harmed the unity of nationalities or divided the country and a small number of persons had been punished because of criminal activities carried out in the name of religion. It was wrong to describe such punishment as restricting the freedom of religious belief or endangering the cultural and religious identity of minority nationalities.

98. China had made great efforts in recent years to build up its legal system, which contained strict provisions concerning security, the administration of justice and judicial procedures to protect the legitimate rights of citizens. There was, for example, separation between the functions of the courts, the procuratorates and the public security organs in handling criminal cases. Administrative bodies, social organizations or individuals could not interfere with the courts or the procuratorates in the performance of their duties. China's judicial system was suited to the national conditions of the country and had played an important role in safeguarding human rights.

99. Notwithstanding false allegations of persistent human rights violations, it was common knowledge that, in recent years, China had had political stability, social tranquillity and economic development, especially since the reforms of early 1992. A former Secretary-General of the United Nations, speaking in Hong Kong in July 1992, had said that there was not enough evidence to maintain that there had been large numbers of human rights violations in China, that China had been successful in realizing the most fundamental of human rights, namely, solving the country's problem of food and shelter, and that the human rights record of China had been far better than that of many other countries.

100. In its efforts to support the promotion of human rights, China had acceded to eight international human rights instruments since 1980, and his Government had always submitted reports on the implementation of those instruments, whose obligations it had consistently fulfilled.

101. In his Government's view, human rights were an issue that fell within the jurisdiction of each State. The provisions of the relevant international human rights instruments could be put into effect only through domestic legislative, judicial and administrative measures. While civil and political rights and economic, social and cultural rights deserved equal attention, the right to independence, subsistence and development were of paramount importance to the overwhelming majority of the developing countries.

102. The human rights situation in a country should not be assessed in total disregard of its history and national conditions and it was undesirable to require all countries to copy the standard and model of one country or group of countries. Human rights must not be used as an instrument of political pressure and interference in the internal affairs of others; their promotion must be based on the principle of non-selectivity, objectivity and impartiality.

103. His delegation was gravely concerned about the question of Cyprus and considered that any solution must be in keeping with the fundamental interests of both the Greek and Turkish communities in that country and with peace, stability and development in the region. It hoped that the two communities and other parties concerned would seize the opportunity to cooperate with the Secretary-General on finding a just solution on the basis of the relevant resolutions of the General Assembly and the Security Council. His Government supported the good offices of the Secretary-General and was prepared to join efforts to bring about a just settlement of the Cyprus question.

104. Mr. CHANDRA (India), speaking in exercise of the right of reply, said that Pakistan was using terrorism as a form of state policy to undermine the territorial integrity of India in blatant violation of the principles of the United Nations Charter. The legal validity of the accession of Jammu and Kashmir to India had never been questioned and the responsibility for not holding the proposed plebiscite rested squarely with Pakistan because of its failure to stop its aggression. The unsettled conditions in Jammu and Kashmir were the direct result of a well-organized campaign by Pakistan to engineer terrorist violence and secession.

105. The Government of Pakistan had organized special training camps for terrorists and had provided them with weapons and guidance. Funds for terrorist activities were raised through front organizations in Pakistan and elsewhere. Prominent political figures had been targeted for assassination operations, and death threats had been issued to judges, independent journalists and human rights activists. Since 1988, 2,700 innocent civilians had been killed and hundreds of public facilities, educational institutions and communications facilities had been destroyed. It was gratifying that the observer for Denmark, speaking on behalf of the European Community, had urged the Government of Pakistan to take effective steps to prevent violent interference from the territory under its control.

106. The people of Jammu and Kashmir had returned freely elected governments to office on several occasions. Subsequent to the endorsement by the Constituent Assembly of Jammu and Kashmir of the State's accession to India, there had been six national and local assembly elections, with a turnout similar to the national average.

107. Indian security forces, seeking to protect the lives of innocent citizens in the face of ruthless terrorism, had been exercising maximum restraint. Where excesses had occurred, disciplinary action had been taken and compensation paid.

108. The proposed fact-finding mission had little relevance in a free and democratic India, where Kashmir, like any other State, was open and had been visited by journalists, diplomats, tourists, foreign members of parliament and members of human rights groups.

109. It was high time that the Commission saw Pakistan in its true light as a State that used terrorism as an instrument of national policy, that crushed its minorities and that had neither signed nor ratified the International

Covenants on Human Rights. The rule of law prevailed in India, but he wondered whether the representative of Pakistan could say the same about his own country.

110. Mr. HUSSAIN (Pakistan), speaking in exercise of the right of reply, said that the representative of India should read the latest edition of the Financial Times which quoted from a detailed list made public by Asia Watch and Physicians for Human Rights, of mass crimes against humanity committed by the Indian occupation forces in Jammu and Kashmir.

111. The representative of India had maintained that Jammu and Kashmir was open to all; that was perhaps so, except for the cases of Amnesty International, Asia Watch and the International Committee of the Red Cross. The observer for Denmark, speaking on behalf of the European Community, had recommended that India open Jammu and Kashmir to visits by international humanitarian organizations. It was to be hoped that India would accept that reasonable course of action and allow a fact-finding mission to investigate.

112. It was remarkable that a country that claimed to be secular, should have engaged in the ethnic cleansing of Muslims, and that a so-called democracy should have imposed what the United States State Department had called the draconian "Terrorism and Disruptive Activities Act" in 23 out of its 25 States. The representative of India had referred to "unsettled conditions" in Jammu and Kashmir; presumably Pakistan was responsible also for the unsettled conditions in 23 out of the 25 Indian States.

113. As for the Indian delegation's idea of free elections, the Indian Ministry of Home Affairs had itself admitted that, apart from the election held in 1977, all those in Jammu and Kashmir had been rigged.

The meeting rose at 6.15 p.m.